

Before the State of South Carolina
Department of Insurance

In the Matter of:

Merrill Lynch Life Insurance Company,

425 West Capital Avenue, Suite 1800

Little Rock, Arkansas 72201-3525.

)
)
)
)
)
)
)

Consent Order

File Number 1998324-020-003

This matter comes before me pursuant to an agreement entered into between the State of South Carolina Department of Insurance and Merrill Lynch Life Insurance Company, an insurer licensed to transact business in the State of South Carolina.

Merrill Lynch Life acknowledges that it failed to forward a policy replacement notice to another life insurer. Merrill Lynch Life maintains that this was an inadvertent failure not at all indicative of its usual compliance standards. However, this is a direct violation of 25A S.C. Code Ann. Reg. 69-12.1 § 7.B.2 (1989) that can ultimately lead to the revocation or suspension of an insurer's certificate of authority to transact the business of insurance in South Carolina.

Prior to the initiation of any administrative proceedings by the Department against Merrill Lynch Life, the parties agreed to submit the entire matter to me, along with their specific recommendation, for my summary decision, rather than to proceed toward a formal public hearing. The consensual recommendation was that, in lieu of the Department seeking to revoke Merrill Lynch Life's certificate of authority, the insurer would waive its right to a public hearing and immediately remit to the Department the total amount of \$5,000.

Regulation 69-12.1 § 7.B.2 requires an insurer, which receives notice from an agent that its policy may replace an existing policy issued by another insurer, to send written communication to the existing insurer. Section 38-5-120 of the South Carolina Code allows the Director of Insurance to "revoke or suspend certificates of authority granted to an insurer...if he is of the opinion upon examination or other evidence that...(t)he insurer has not complied with the law or with the provisions of its charter." Alternatively, § 38-5-130 provides that in lieu of license revocation or suspension, the Director may impose a monetary penalty as provided in §38-2-10.

After a thorough review of the record, carefully considering the recommendation of the parties, and pursuant to my findings of fact, I hereby invoke the discretionary authority given to me and require Merrill Lynch Life to remit the total amount of \$5,000 to the Department. That

 Merrill Lynch Life Ins. Co.

amount must be paid within ten days of the date of my signature upon this consent order. If that total amount is not timely paid, the insurer's certificate of authority will be revoked without any further disciplinary proceedings.


This agreement has been reached by the parties as a result of negotiation and compromise, and in consideration of Merrill Lynch Life's assurance that it will henceforth comply with South Carolina's insurance laws regarding replacement of policies. By the signature of one of its officers or authorized representative upon this consent order, Merrill Lynch Life acknowledges this administrative order as a public record subject to the disclosure requirements of the State of South Carolina's *Freedom of Information Act*, S.C. Code Ann. §§ 30-4-10, *et seq.* (1991 and Supp. 1998).

Nothing contained within this administrative order should be construed to limit, or to deprive any person of, any private right of action under the law. Nothing contained within this administrative order should be construed to limit, in any manner, the criminal jurisdiction of any law enforcement officer or judicial officer. Nothing contained within this administrative order should be construed to limit the statutory duty, of the Director of Insurance, exercised either directly or through the Department of Insurance, to "report to the Attorney General or other appropriate law enforcement officials criminal violations of the laws relative to the business of insurance or the provisions of this title which he considers necessary to report." *See* S.C. Code Ann. § 38-3-110 (Supp. 1998).

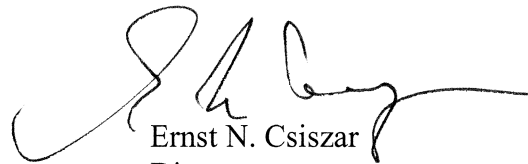
It is, therefore, ordered that Merrill Lynch Life shall, within ten days of the date of my signature on this consent order, pay through the South Carolina Department of Insurance the total amount of \$5,000.

It is further ordered that a copy of this consent order be immediately transmitted to the National Association of Insurance Commissioners for distribution to its member states.

This consent order becomes effective as of the date of my signature below.

 Mark S. 8
January 8, 2000

Columbia, South Carolina


Ernst N. Csiszar
Director



Merrill Lynch Life Ins. Co.

I CONSENT:

Lori Miller Salvo
Signature

LORI MILLER SALVO
Printed Name

VICE PRESIDENT & SENIOR COUNSEL
Title

Merrill Lynch Life Insurance Company
425 West Capital Avenue, Suite 1800
Little Rock, Arkansas 72201-3525

Dated this 23rd day of ~~January~~ ^{February} 2000.